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8 **UNITED STATES BANKRUPTCY COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
10

11 In re  
12 EPIC CYCLE INTERACTIVE, INC.,  
13 Debtor.  
14

CASE NO. 08-03289-JM7

15 RONALD E. STADTMUELLER.,  
16 Plaintiff,  
17 v.  
18 JUMPTV.  
19 Defendant.  
20  
21

ADVERSARY NO. \_\_\_\_\_

**COMPLAINT TO AVOID AND  
RECOVER PREFERENTIAL  
TRANSFERS PURSUANT TO  
11 U.S.C. §§ 547 AND 550**

Case File: April 22, 2008  
Dept.: 5  
Judge: Hon. James W. Myers

22 Plaintiff Ronald E. Stadtmueller ("Trustee") for the estate of EPIC CYCLE  
23 INTERACTIVE, INC. ("Epic" of "Debtor"), as and for his Complaint to Avoid and  
24 Recover Preferential Transfers pursuant to 11 U.S.C. §§ 547 and 550 against  
25 defendant JUMPTV ("Defendant"), alleges as follows.  
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1           1.     On April 22, 2008, (the "Petition Date"), Debtor filed a petition for  
2 bankruptcy under Chapter 11 of Title 11 of the United States Code (the  
3 "Bankruptcy Code").

4           2.     On March 5, 2010, the Bankruptcy Court entered an order converting  
5 the Chapter 11 bankruptcy case to a case under Chapter 7.

6           3.     On March 5, 2010, the Bankruptcy Court entered an order duly  
7 appointing Trustee as Chapter 7 Trustee of Debtor's Chapter 7 bankruptcy estate.  
8 Trustee remains the duly appointed, qualified and acting trustee of the Debtor's  
9 Chapter 7 bankruptcy estate.

10          4.     This adversary proceeding arises out of and relates to the case which is  
11 pending on the docket of this Court.

12          5.     This Court has jurisdiction over this adversary proceeding pursuant to  
13 28 U.S.C. §§ 157(a), 1334(a) and 11 U.S.C. §547.

14          6.     This adversary proceeding is a core proceeding pursuant to 28 U.S.C.  
15 § 157(b)(2)(E) and (F).

16          7.     Venue of this adversary proceeding is proper in this district pursuant to  
17 28 U.S.C. §§ 1408 and 1409(a) and (c) because the Case is pending in this judicial  
18 district.

19          8.     This adversary proceeding is commenced pursuant to Federal Rule of  
20 Bankruptcy Procedure 7003 and Local Rule of Bankruptcy Procedure 7003.

### 21                                   **FIRST CLAIM FOR RELIEF**

22                   (Avoidance of Preferential Transfers Pursuant to 11 U.S.C. § 547)

23          9.     Trustee hereby incorporates by this reference Paragraphs 1 through 9  
24 above as though set forth fully herein.

25          10.    On or within ninety (90) days prior to the Petition Date (the  
26 "Preference Period"), Debtor transferred, and/or caused to be transferred, property  
27 to Defendant in the form of one or more payments of monies and/or transfers of  
28 goods in an amount of not less than \$59,477.31 (the "Transfers"). Based upon a

1 review of the Debtor's books and records, the Transfers of which Trustee is  
 2 presently aware, are set forth in **Exhibit A** attached hereto. The amount set forth in  
 3 the paragraph shall not constitute a waiver by Trustee to amend this complaint to  
 4 include additional transfers identified through discovery or otherwise.

5 11. Each of the Transfers constituted transfers of interest in the property of  
 6 Epic.

7 12. Each of the Transfers were made, or caused to be made, to or for the  
 8 benefit of Defendant, that according to Trustee's information and belief is a creditor  
 9 and/or an agent for the creditors of Debtor.

10 13. Each of the Transfers was made, or was caused to be made, for or on  
 11 account of an antecedent debt owed by Debtor to Defendant and/or an agent for  
 12 Defendant prior to the date on which such Transfers occurred.

13 14. Debtor was insolvent for the purpose of Bankruptcy Code § 547(b)  
 14 when each of the Transfers was made.

15 15. Each of the Transfers enabled Defendant to receive more than it would  
 16 have received if (i) the case were a case under Chapter 7 of the Bankruptcy Code;  
 17 (ii) the Transfers had not been made; (iii) Defendant received payment of such debt  
 18 relating to each Transfer to the extent provided by the provisions of the Bankruptcy  
 19 Code.

20 16. Trustee is entitled to avoid the Transfers pursuant to Bankruptcy Code  
 21 § 547(b).

## 22 **SECOND CLAIM FOR RELIEF**

23 (Recovery of Avoided Transfers Pursuant to 11 U.S.C. § 550)

24 17. Trustee hereby incorporates by this reference Paragraphs 1 through 17  
 25 above as though set forth fully herein.

26 18. To the extent the Transfers are avoided under section 547 of the  
 27 Bankruptcy Code, the Trustee is entitled to recover, for the benefit of the estate the  
 28 property transferred, or the value of such property transferred thereby, pursuant to

1 Bankruptcy Code § 550.

2  
3 **PRAYER**

4 **WHEREFORE**, Trustee prays that this Court enter judgment against  
5 Defendant as follows:

6 **On the First Claim for Relief:**

- 7 1. Declaring the Transfers to be voidable preferences under Bankruptcy Code  
8 §547;
- 9 2. Awarding Trustee Judgment against Defendant in the amount of the  
10 Transfers (plus the amount of any additional transfers of property of the  
11 Debtors made to Defendant during the Preference Period that Trustee  
12 identifies through discovery or otherwise) together with interest on such  
13 amounts from the dates of the Transfers; and
- 14 3. If Defendant has filed a proof of claim pursuant to Bankruptcy Code § 501  
15 against the Debtor, then disallowing such claim until such time as:
- 16 a. Defendant turns over to Trustee any property deemed  
17 recoverable pursuant to Bankruptcy Code § 550; and/or
- 18 b. Defendant has paid the amount for which Defendant is liable  
19 pursuant to Bankruptcy Code § 550.

20 **On the Second Claim for Relief:**

- 21 1. Directing Defendant to immediately pay to Trustee the Transfers, or an  
22 amount equal to the Transfers (plus the amount of any additional transfers of  
23 property of the Debtors made to Defendant during the Preference Period that  
24 Trustee identifies through discovery or otherwise), pursuant to Bankruptcy  
25 Code § 550, together with interest on such amounts from the dates of the  
26 Transfers.
- 27  
28

**On the All Claims for Relief**

1. Awarding Trustee attorney fees, costs and other expenses incurred in this adversary proceeding; and
2. Granting such other and further relief as this Court deems just and proper.

DATED: March 3, 2010

HIGGS FLETCHER & MACK LLP

By: 

JOHN L. MORRELL, ESQ.  
RAHIL K. SWIGART, ESQ.  
Attorneys for Trustee RONALD E.  
STADTMUELLER

JUMPTV

**EXHIBIT "A"**

Bill Pmt - Check	02/22/2008	SAM/ JUMPTV	-59,477.31
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